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2 Environment and Natural Resources Division  
U.S. Department of Justice  
3 PATRICIA L. HURST  
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4 Environmental Enforcement Section  
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7 ATTORNEYS FOR PLAINTIFF  
8 UNITED STATES OF AMERICA

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11

12 UNITED STATES OF AMERICA and PEOPLE  
13 OF THE STATE OF CALIFORNIA *ex rel.*  
14 CALIFORNIA STATE WATER RESOURCES  
CONTROL BOARD and CALIFORNIA  
15 REGIONAL WATER QUALITY CONTROL  
BOARD, SAN FRANCISCO BAY REGION,

16 Plaintiffs,

17 v.

18 EAST BAY MUNICIPAL UTILITY DISTRICT,  
19 Defendant.

Case No. C-09-0186-RS

[Complaint Filed: January 15, 2009]

20  
21 UNITED STATES OF AMERICA and PEOPLE  
22 OF THE STATE OF CALIFORNIA *ex rel.*  
23 CALIFORNIA STATE WATER RESOURCES  
CONTROL BOARD and CALIFORNIA  
24 REGIONAL WATER QUALITY CONTROL  
BOARD, SAN FRANCISCO BAY REGION,

25 Plaintiffs,

26 v.

27 CITY OF ALAMEDA, ET AL.,  
28 Defendants.

Case No. C-09-5684-RS

**STIPULATION AND ~~PROPOSED~~  
ORDER CONSOLIDATING  
RELATED CASES**

[Complaint Filed: December 3, 2009]

1 Pursuant to Federal Rule of Civil Procedure 42, the parties to these two related cases, by  
2 and through their respective counsel, hereby stipulate as follows:

3 1. These cases involve common questions of law and fact concerning the Clean  
4 Water Act, the State of California's Porter-Cologne Water Quality Control Act and their  
5 application to the sewer system in the wastewater service area of East Bay Municipal Utility  
6 District ("EBMUD"), the defendant in Case No. C-09-0186-RS (the "EBMUD case"). EBMUD  
7 owns and operates the wastewater treatment plant ("WWTP") near the eastern end of the Bay  
8 Bridge, as well as the interceptor pipes ("Interceptor") that transport wastewater to the WWTP  
9 and, during severe wet weather events, to three wet weather treatment facilities ("WWFs").


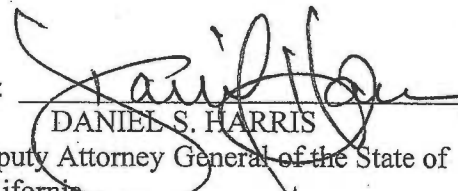
10 2. The defendants in Case No. C-09-5684-RS (the "Satellites case") -- the cities of  
11 Alameda, Albany, Berkeley, Emeryville, Oakland and Piedmont and the Stege Sanitary District,  
12 which serves the city of El Cerrito, Kensington and portions of the City of Richmond  
13 (collectively, the "Satellites") -- own and operate the collection systems that collect wastewater  
14 and transport it to EBMUD's Interceptor.

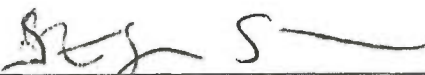
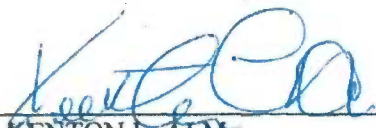


15 3. These cases concern (a) discharges from the WWFs, (b) sanitary sewer overflows  
16 ("SSOs"), and (c) how best to address both. The parties are currently in negotiations designed to  
17 achieve a consensual resolution, but regardless of whether those negotiations succeed or the  
18 issues must be resolved by litigation, the parties agree that resolution is best achieved by a  
19 coordinated Order governing both EBMUD's and the Satellites' portions of the interconnected  
20 East Bay sewer system.

21 4 If the cases proceeded to trial separately, that would result in an unduly  
22 burdensome duplication of labor and expense. Consolidation is likely to save judicial resources.

23 5. Therefore, the parties jointly request that the Court consolidate the two actions for  
24 all purposes.

25  
26 [signatures on following pages]  
27  
28

Plaintiffs in Both Cases	
UNITED STATES OF AMERICA  By:  PATRICIA L. HURST Senior Counsel Environmental Enforcement Section Environment and Natural Resources Division U.S. Department of Justice	PEOPLE OF THE STATE OF CALIFORNIA <i>ex rel.</i> CALIFORNIA STATE WATER RESOURCES CONTROL BOARD and CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN FRANCISCO BAY REGION  By:  DANIEL S. HARRIS Deputy Attorney General of the State of California
Defendant in EBMUD Case No. C-09-0186-RS	
EAST BAY MUNICIPAL UTILITY DISTRICT  By: _____ JONATHAN D. SALMON Attorney Office of General Counsel East Bay Municipal Utility District	
Defendants in Satellites Case No. C-09-5684-RS	
City of Alameda  By: _____ STEPHANIE GARRABRANT-SIERRA Assistant City Attorney Alameda City Attorney's Office	City of Albany  By: _____ KENTON L. ALM Meyers, Nave, Riback, Silver & Wilson
City of Berkeley  By: _____ ZACHARY D. COWAN Berkeley City Attorney	City of Emeryville  By: _____ MICHAEL G. BIDDLE Emeryville City Attorney

1	<b>Plaintiffs in Both Cases</b>	
2	UNITED STATES OF AMERICA	PEOPLE OF THE STATE OF CALIFORNIA
3		<i>ex rel.</i> CALIFORNIA STATE WATER
4		RESOURCES CONTROL BOARD and
5	By: _____	CALIFORNIA REGIONAL WATER
6	PATRICIA L. HURST	QUALITY CONTROL BOARD, SAN
7	Senior Counsel	FRANCISCO BAY REGION
8	Environmental Enforcement Section	
9	Environment and Natural Resources Division	
10	U.S. Department of Justice	By: _____
11		DANIEL S. HARRIS
12		Deputy Attorney General of the State of
13		California
14	<b>Defendant in EBMUD Case No. C-09-0186-RS</b>	
15	EAST BAY MUNICIPAL UTILITY	
16	DISTRICT	
17		
18	By: _____	
19	JONATHAN D. SALMON	
20	Attorney	
21	Office of General Counsel	
22	East Bay Municipal Utility District	
23	<b>Defendants in Satellites Case No. C-09-5684-RS</b>	
24	City of Alameda	City of Albany
25		
26	By: 	By: 
27	STEPHANIE GARRABRANT-SIERRA	KENTON L. ALM
28	Assistant City Attorney	Meyers, Nave, Riback, Silver & Wilson
29	Alameda City Attorney's Office	
30	City of Berkeley	City of Emeryville
31		
32	By: 	By:  / by PLH
33	ZACHARY D. COWAN	MICHAEL G. BIDDLE
34	Berkeley City Attorney	Emeryville City Attorney
35		
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38		
39	STIPULATION AND ORDER CONSOLIDATING RELATED CASES	
40	C-09-0186-RS and C-09-5684-RS	
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**Plaintiffs in Both Cases**

UNITED STATES OF AMERICA

By: PATRICIA L. HURST  
Senior Counsel  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice

PEOPLE OF THE STATE OF CALIFORNIA  
*ex rel.* CALIFORNIA STATE WATER  
RESOURCES CONTROL BOARD and  
CALIFORNIA REGIONAL WATER  
QUALITY CONTROL BOARD, SAN  
FRANCISCO BAY REGION

By: DANIEL S. HARRIS  
Deputy Attorney General of the State of  
California

**Defendant in EBMUD Case No. C-09-0186-RS**

EAST BAY MUNICIPAL UTILITY  
DISTRICT

By: JONATHAN D. SALMON  
Attorney  
Office of General Counsel  
East Bay Municipal Utility District

**Defendants in Satellites Case No. C-09-5684-RS**

City of Alameda

By: STEPHANIE GARRABRANT-SIERRA  
Assistant City Attorney  
Alameda City Attorney's Office

City of Albany

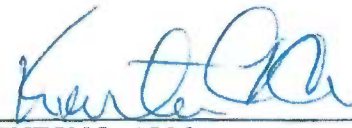
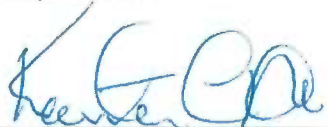
By: KENTON L. ALM  
Meyers, Nave, Riback, Silver & Wilson

City of Berkeley

By: ZACHARY D. COWAN  
Berkeley City Attorney

City of Emeryville

By: MICHAEL G. BIDDLE  
Emeryville City Attorney

1	City of Oakland	City of Piedmont
2		
3	By: _____	By: 
4	CELSO D. ORTIZ	KENTON L. ALM
5	Deputy City Attorney	Meyers, Nave, Riback, Silver & Wilson
6	Oakland City Attorney's Office	
7	Stege Sanitary District	
8	By: 	
9	KENTON L. ALM	
10	Meyers, Nave, Riback, Silver & Wilson	

**Intervenors in Both Cases**

11	Our Children's Earth Foundation	San Francisco Baykeeper
12		
13	By: _____	By: _____
14	CHRISTOPHER A. SPROUL	JASON R. FLANDERS
15	Environmental Advocates	San Francisco Baykeeper

So Ordered.

Dated: May \_\_, 2013

\_\_\_\_\_  
HONORABLE RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE

1 City of Oakland

City of Piedmont

2  
3 By: 

CELSO D. ORTIZ

By: \_\_\_\_\_

KENTON L. ALM

4 Deputy City Attorney

Meyers, Nave, Riback, Silver & Wilson

5 Oakland City Attorney's Office

6 Stege Sanitary District

7  
8 By: \_\_\_\_\_

KENTON L. ALM

9 Meyers, Nave, Riback, Silver & Wilson

10 **Intervenors in Both Cases**

11 Our Children's Earth Foundation

San Francisco Baykeeper

12  
13 By: \_\_\_\_\_

CHRISTOPHER A. SPROUL

14 Environmental Advocates

By: \_\_\_\_\_

JASON R. FLANDERS

San Francisco Baykeeper

15  
16 So Ordered.

17  
18 Dated: May \_\_, 2013

\_\_\_\_\_  
HONORABLE RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE

1 City of Oakland	City of Piedmont
2	
3 By: _____	By: _____
4 CELSO D. ORTIZ	KENTON L. ALM
5 Deputy City Attorney	Meyers, Nave, Riback, Silver & Wilson
6 Oakland City Attorney's Office	
7 Stege Sanitary District	
8	
9 By: _____	
10 KENTON L. ALM	
Meyers, Nave, Riback, Silver & Wilson	
<b>Intervenors in Both Cases</b>	
11 Our Children's Earth Foundation	San Francisco Baykeeper
12	
13	
14 By: <u>Christopher A. Sproul</u>	By: <u>s/ Jason Flanders</u>
15 CHRISTOPHER A. SPROUL	JASON R. FLANDERS
Environmental Advocates	San Francisco Baykeeper

16  
17 So Ordered.

18  
19 Dated: May 20, 2013

20 HONORABLE RICHARD SEEBORG  
21 UNITED STATES DISTRICT JUDGE  
22  
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**PROOF OF SERVICE BY ELECTRONIC FILING/SERVICE**

I, Patricia L. Hurst, declare that I am over the age of eighteen years and not a party to this action. I am an employee of the United States Department of Justice and my business address is 601 D Street, NW, Washington DC 20004. On May 20, 2013, I served the following document(s) in these related cases (Nos. C-09-0186-RS and C-09-5684-RS):

**STIPULATION AND [PROPOSED] ORDER CONSOLIDATING RELATED CASES**

I (1) caused said document to be Electronically Filed and Served through the CourtLink system to those parties on the Service List maintained on Courtlink's Website for the two cases captioned above and (2) also emailed the document to the party representatives listed below. The file transmission was reported as complete and a copy of the "JusticeLink Filing Receipt" page will be maintained with the original document(s) in our office.

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Environmental Advocates  
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San Francisco, CA 94121  
email: [csproul@enviroadvocates.com](mailto:csproul@enviroadvocates.com)

1 I declare under penalty of perjury under the laws of the District of Columbia that the  
2 foregoing is true and correct. Executed on May 10, 2013, at Washington, DC.  
3  
4

5 /s/ Patricia L. Hurst  
6 PATRICIA L. HURST  
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